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865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Attorneys for TSUBURAYA PRODUCTIONS CO. LTD.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

UM CORPORATION, a Japanese corporation,

Plaintiff,

vs.

TSUBURAYA PRODUCTIONS CO. LTD., a Japanese corporation,

Defendant.

CASE NO. 2:15-cv-03764-AB-AJW

**PROOF OF SERVICE OF SUMMONS AND COUNTERCLAIMS ON COUNTER-DEFENDANT TIGA ENTERTAINMENT COMPANY, LTD.**

Trial Date: April 18, 2017

TSUBURAYA PRODUCTIONS CO. LTD., a Japanese corporation,

Counterclaimant,

vs.

UM CORPORATION, a Japanese corporation; ULTRAMAN USA, INC., a California corporation; SOMPOTE SAENGDUENCHAI, a Thai individual; GOLDEN MEDIA GROUP, INC., a California corporation; TIGA ENTERTAINMENT COMPANY, LTD., a Hong Kong corporation; and DOES 1-10,

Counterdefendants.

**Proof of Service**

Attached hereto as Exhibit A is proof of service of the Summons and Counterclaims filed by Defendant and Counterclaimant Tsuburaya Productions Co. Ltd., on Counter-defendant TIGA Entertainment Company, Ltd. ("TIGA"), confirming that service was effected upon TIGA pursuant to the Hague Service Convention on December 14, 2015. On January 27, 2016, Tsuburaya was notified that service on TIGA had been completed when it received the documents included in Exhibit A.

DATED: January 28, 2016

Respectfully submitted,

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Daniel C. Posner
Daniel C. Posner
Attorneys for TSUBURAYA PRODUCTIONS CO. LTD.

# EXHIBIT A

香港特別行政區政府
政務司司長辦公室轄下行政署

香 港 添 馬 添 美 道 2 號

The Government of
The Hong Kong Special Administrative Region
Administration Wing,
Chief Secretary for Administration's Office

2 Tim Mei Avenue, Tamar, Hong Kong

本函檔號 Our Ref.: CSO/ADM/SJ/409/2015A

來函檔號 Your Ref.:

Room 321, 3/F, East Wing
Central Government Offices
Tel No. (852) 2810 3969
Fax No. (852) 2842 8897

**By Registered Mail**

5 January 2016

Quinn Emanuel Urquhart & Sullivan, LLP
Daniel C. Posner
865 South Figueroa Street, 10* Floor
Los Angeles, California 90017-2543
USA

Dear Sir,

**Service of Documents on**
**Tiga Entertainment Company, Limited**

With reference to your recent request for service, I am pleased to inform you that service has been effected on the party concerned. I return the other copy of the documents received for service together with an Affirmation of Service completed by the Bailiff's Assistant of the High Court for your disposal.

Yours faithfully,

(Ms Betty HAU)
for Chief Secretary for Administration

Encl.

# REQUEST FOR SERVICE ABROAD OF JUDICIAL OR EXTRAJUDICIAL DOCUMENTS

DEMANDE AUX FINS DE SIGNIFICATION OU DE NOTIFICATION À L'ÉTRANGER D'UN ACTE JUDICIAIRE OU EXTRAJUDICIAIRE

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965.**
Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye le 15 novembre 1965.

| **Identity and address of the applicant**<br>Identité et adresse du requérant | **Address of receiving authority**<br>Adresse de l'autorité destinataire |
|---|---|
| Quinn Emanuel Urquhart & Sullivan, LLP<br>Daniel C. Posner (Bar No. 232009)<br>865 South Figueroa Street, 10* Floor<br>Los Angeles, California 90017-2543 | Chief Secretary for Administration<br>Hong Kong Special Administrative Region Government<br>Room 321, 3/F, East Wing<br>Central Government Offices<br>2 Tim Mei Avenue<br>Admiralty, Hong Kong, China |

**The undersigned applicant has the honour to transmit – in duplicate – the documents listed below and, in conformity with Article 5 of the above-mentioned Convention, requests prompt service of one copy thereof on the addressee, i.e.:**
Le requérant soussigné a l'honneur de faire parvenir – en double exemplaire – à l'autorité destinataire les documents ci-dessous énumérés, en la priant, conformément à l'article 5 de la Convention précitée, d'en faire remettre sans retard un exemplaire au destinataire, à savoir :

**(identity and address)**
(identité et adresse)
Tiga Entertainment Company, Limited, a Hong Kong corporation
Unit 2508A, 25/F Bank of America, Tower
12 Harcourt Road Central, Hong Kong, China

| | | |
|---|---|---|
| ☑ | *a)* | **in accordance with the provisions of sub-paragraph *a)* of the first paragraph of Article 5 of the Convention***<br>selon les formes légales (article 5, alinéa premier, lettre *a*)* |
| ☐ | *b)* | **in accordance with the following particular method (sub-paragraph *b*) of the first paragraph of Article 5)*:**<br>selon la forme particulière suivante (article 5, alinéa premier, lettre *b*)* : |
| ☐ | *c)* | **by delivery to the addressee, if he accepts it voluntarily (second paragraph of Article 5)***<br>le cas échéant, par remise simple (article 5, alinéa 2)* |

**The authority is requested to return or to have returned to the applicant a copy of the documents - and of the annexes* - with the attached certificate.**
Cette autorité est priée de renvoyer ou de faire renvoyer au requérant un exemplaire de l'acte - et de ses annexes* - avec l'attestation ci-jointe.

***List of documents*** */ Énumération des pièces*

Summons in a Civil Action; Tsuburaya Productions co., Ltd.'s Answer, Affirmative Defenses and Counterclaims

* if appropriate / s'il y a lieu

| | | |
|---|---|---|
| **Done at** / Fait à | Los Angeles, California, USA | **Signature and/or stamp**<br>Signature et / ou cachet |
| **The** / le | October 22, 2015 | |

# CERTIFICATE
ATTESTATION

**The undersigned authority has the honour to certify, in conformity with Article 6 of the Convention,**
L'autorité soussignée a l'honneur d'attester conformément à l'article 6 de ladite Convention,

☐ **1. that the document has been served***
que la demande a été exécutée*

| | |
|---|---|
| **– the (date)** / le (date): | 14th December 2015 |
| **– at (place, street, number):** à (localité, rue, numéro) : | unit 3508A, 3517, Bank of America Tower 12 Harcourt Road, Central, Hong Kong |

**– in one of the following methods authorised by Article 5:**
dans une des formes suivantes prévues à l'article 5 :

☐ *a)* **in accordance with the provisions of sub-paragraph *a)* of the first paragraph of Article 5 of the Convention***
selon les formes légales (article 5, alinéa premier, lettre *a*)*

☐ *b)* **in accordance with the following particular method*:**
selon la forme particulière suivante* :

☐ *c)* **by delivery to the addressee, if he accepts it voluntarily***
par remise simple*

**The documents referred to in the request have been delivered to:**
Les documents mentionnés dans la demande ont été remis à :

| | |
|---|---|
| **Identity and description of person:** Identité et qualité de la personne : | |
| **Relationship to the addressee (family, business or other):** Liens de parenté, de subordination ou autres, avec le destinataire de l'acte : | |

☐ **2. that the document has not been served, by reason of the following facts*:**
que la demande n'a pas été exécutée, en raison des faits suivants*:

☐ **In conformity with the second paragraph of Article 12 of the Convention, the applicant is requested to pay or reimburse the expenses detailed in the attached statement*.**
Conformément à l'article 12, alinéa 2, de ladite Convention, le requérant est prié de payer ou de rembourser les frais dont le détail figure au mémoire ci-joint*.

***Annexes** / Annexes*

| | |
|---|---|
| **Documents returned:** Pièces renvoyées : | |
| **In appropriate cases, documents establishing the service:** Le cas échéant, les documents justificatifs de l'exécution : | Affirmation of Service of Cheung Kam Yuen, Bai Zhi dated 14 December 2015 |

* if appropriate / s'il y a lieu

| | |
|---|---|
| **Done at** / Fait à<br>**The** / le | **Signature and/or stamp**<br>Signature et / ou cachet |

THE SEAL OF THE HIGH COURT HONG KONG

31 DEC 2015

# WARNING
AVERTISSEMENT

**Identity and address of the addressee**
Identité et adresse du destinataire

Tiga Entertainment Company, Limited, a Hong Kong corporation
Unit 2508A, 25/F Bank of America, Tower
12 Harcourt Road Central, Hong Kong, China

**IMPORTANT**

**THE ENCLOSED DOCUMENT IS OF A LEGAL NATURE AND MAY AFFECT YOUR RIGHTS AND OBLIGATIONS. THE 'SUMMARY OF THE DOCUMENT TO BE SERVED' WILL GIVE YOU SOME INFORMATION ABOUT ITS NATURE AND PURPOSE. YOU SHOULD HOWEVER READ THE DOCUMENT ITSELF CAREFULLY. IT MAY BE NECESSARY TO SEEK LEGAL ADVICE.**

**IF YOUR FINANCIAL RESOURCES ARE INSUFFICIENT YOU SHOULD SEEK INFORMATION ON THE POSSIBILITY OF OBTAINING LEGAL AID OR ADVICE EITHER IN THE COUNTRY WHERE YOU LIVE OR IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED.**

**ENQUIRIES ABOUT THE AVAILABILITY OF LEGAL AID OR ADVICE IN THE COUNTRY WHERE THE DOCUMENT WAS ISSUED MAY BE DIRECTED TO:**

TRÈS IMPORTANT

LE DOCUMENT CI-JOINT EST DE NATURE JURIDIQUE ET PEUT AFFECTER VOS DROITS ET OBLIGATIONS. LES « ÉLÉMENTS ESSENTIELS DE L'ACTE » VOUS DONNENT QUELQUES INFORMATIONS SUR SA NATURE ET SON OBJET. IL EST TOUTEFOIS INDISPENSABLE DE LIRE ATTENTIVEMENT LE TEXTE MÊME DU DOCUMENT. IL PEUT ÊTRE NÉCESSAIRE DE DEMANDER UN AVIS JURIDIQUE.

SI VOS RESSOURCES SONT INSUFFISANTES, RENSEIGNEZ-VOUS SUR LA POSSIBILITÉ D'OBTENIR L'ASSISTANCE JUDICIAIRE ET LA CONSULTATION JURIDIQUE, SOIT DANS VOTRE PAYS, SOIT DANS LE PAYS D'ORIGINE DU DOCUMENT.

LES DEMANDES DE RENSEIGNEMENTS SUR LES POSSIBILITÉS D'OBTENIR L'ASSISTANCE JUDICIAIRE OU LA CONSULTATION JURIDIQUE DANS LE PAYS D'ORIGINE DU DOCUMENT PEUVENT ÊTRE ADRESSÉES À :

United States District Court, Central District of California, Western Division
312 N Spring St, Los Angeles, CA 90012
Phone:(213) 894-1565

**It is recommended that the standard terms in the notice be written in English and French and where appropriate also in the official language, or in one of the official languages of the State in which the document originated. The blanks could be completed either in the language of the State to which the document is to be sent, or in English or French.**

Il est recommandé que les mentions imprimées dans cette note soient rédigées en langue française et en langue anglaise et le cas échéant, en outre, dans la langue ou l'une des langues officielles de l'État d'origine de l'acte. Les blancs pourraient être remplis, soit dans la langue de l'État où le document doit être adressé, soit en langue française, soit en langue anglaise.

# SUMMARY OF THE DOCUMENT TO BE SERVED
ÉLÉMENTS ESSENTIELS DE L'ACTE

**Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters, signed at The Hague, the 15th of November 1965 (Article 5, fourth paragraph).**

Convention relative à la signification et à la notification à l'étranger des actes judiciaires ou extrajudiciaires en matière civile ou commerciale, signée à La Haye le 15 novembre 1965 *(article 5, alinéa 4)*.

| | |
|---|---|
| **Name and address of the requesting authority:**<br>Nom et adresse de l'autorité requérante : | Quinn Emanuel Urquhart & Sullivan, LLP<br>Daniel C. Posner (Bar No. 232009)<br>865 South Figueroa Street, 10* Floor<br>Los Angeles, California 90017-2543 |
| **Particulars of the parties*:**<br>Identité des parties* : | Tiga Entertainment Company, Limited, a Hong Kong corporation<br>Unit 2508A, 25/F Bank of America, Tower<br>12 Harcourt Road Central, Hong Kong, China |

* If appropriate, identity and address of the person interested in the transmission of the document
S'il y a lieu, identité et adresse de la personne intéressée à la transmission de l'acte

☐ **JUDICIAL DOCUMENT****
ACTE JUDICIAIRE**

| | |
|---|---|
| **Nature and purpose of the document:**<br>Nature et objet de l'acte : | To respond to counter-defendants claims and demand a response from the counter-defendant regarding counterclaims. |
| **Nature and purpose of the proceedings and, when appropriate, the amount in dispute:**<br>Nature et objet de l'instance, le cas échéant, le montant du litige : | Civil action regarding copyright infringement. |
| **Date and Place for entering appearance****:<br>Date et lieu de la comparution** : | N/A |
| **Court which has given judgment****:<br>Juridiction qui a rendu la décision** : | N/A |
| **Date of judgment****:<br>Date de la décision** : | N/A |
| **Time limits stated in the document****:<br>Indication des délais figurant dans l'acte** : | Defendant is to serve written defenses to the action on Plaintiff's attorney no later than twenty one (21) days after the day of service. |

** if appropriate / s'il y a lieu

☐ **EXTRAJUDICIAL DOCUMENT****
ACTE EXTRAJUDICIAIRE**

| | |
|---|---|
| **Nature and purpose of the document:**<br>Nature et objet de l'acte : | N/A |
| **Time-limits stated in the document****:<br>Indication des délais figurant dans l'acte** : | N/A |

** if appropriate / s'il y a lieu

CSO/ADM/SJ/409/2015A

Request for Service of Judicial Documents from: U. S. A. (California)

Party for Service: Tiga Entertainment Company Limited

---

AFFIRMATION OF SERVICE

I, CHEUNG Kam-yuen, Bailiff's Assistant of the High Court of Hong Kong, solemnly, sincerely and truly affirm as follows:

1. I was directed by the Registrar, High Court of Hong Kong to serve the above-named Tiga Entertainment Company Limited with the following judicial documents:

i) Request;
ii) Summary of the document to be served;
iii) Certificate (unexecuted);
iv) Summons in a Civil Action with Case No. 2:15-cv-03764-AB-AJW (with Chinese translation); and
v) Tsuburaya Productions Co., Ltd.'s Answer, Affirmative Defenses and Counterclaims with Case No. 2:15-cv-03764-AB-AJW (with Chinese translation).

2. I did on Tuesday the 8th day of December 2015 at 0950 hours call at the address given in the Request for Service, namely, Unit 2508A, 25/F., Bank of America Tower, 12 Harcourt Road, Central, Hong Kong for effecting the service of the aforesaid judicial documents.

3. On arrival at the aforesaid address, I found the door of the premises locked and nobody answered my calls. I then left a message requesting the above-named Tiga Entertainment Company Limited to contact my office.

4. In response to the message left by me, a Miss Wong of the above-named Tiga Entertainment Company Limited telephoned my office on 9th December

2015 and made an appointment for re-serving the aforesaid judicial documents at the given address on 14th December 2015.

5. I did again on Monday the 14th day of December 2015 at 1513 hours call at Unit 2508A, 25/F., Bank of America Tower, 12 Harcourt Road, Central, Hong Kong for effecting the service of the aforesaid judicial documents.

6. On arrival at the aforesaid address, I found that the premises at the aforesaid address were occupied wholly by one company, namely ATA CORPORATE FORMATION & MANAGEMENT LTD. I revealed my identity and purpose of visit to Ms. LAI Sin-man, secretary of the company, who told me that their company was the company secretary of the Party for Service, and the given address was the registered office of the Party for Service. Therefore, I served the above-named Tiga Entertainment Company Limited with the aforesaid judicial documents by leaving the same at its registered office which was situated at Unit 2508A, 25/F., Bank of America Tower, 12 Harcourt Road, Central, Hong Kong.

AND LASTLY, I solemnly, sincerely and truly affirm that the contents of this Affirmation are true.

AFFIRMED at )
Bailiff Hong Kong Regional Office, )
26/F, Wanchai Tower, Wanchai, Hong Kong )
this 14th December 2015. )

Before me,

( SUEN Wai-keung )
Commissioner for Oaths
Judiciary

CSO/ADM/SJ/409/2015A

Request for Service of Judicial Documents from
U. S. A. (California)

Judicial Documents to be served on:
Tiga Entertainment Company Limited

**********

AFFIRMATION OF CHEUNG Kam-yuen

**********

Dated this 14th day of December 2015
Bailiff Hong Kong Regional Office
26/F., Wanchai Law Courts Building,
Hong Kong Special Administrative Region

AO 440 (Rev. 06/12) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

CENTRAL District of CALIFORNIA

TSUBURAYA PRODUCTIONS CO., LTD., a Japanese corporation

*Plaintiff(s)*

v.

UM CORPORATION, a Japanese corporation, et al

*Defendant(s)*

Civil Action No. 2:15-cv-03764-AB-AJW

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

UM CORPORATION, a Japanese corporation (c/o Pillsbury Winthrop Shaw Pittman LLP, 725 S. Figueroa St., Suite 2800, Los Angeles, CA 90017); ULTRAMAN USA, INC., a California corporation (2226 Lerona Ave., Rowland Heights CA 91748); SOMPOTE SAENGDUENCHAI, a Thai individual (99/9 Moo 8 Phaolyothin Rd., Km. 52 Chiengknoi Bangpa-In Bang Pa-in Phra Nakhon Si Ayutthaya, 13160 Thailand); GOLDEN MEDIA GROUP, INC., a California corporation (19553 Mesa of the Oaks, Newhall CA 91321); TIGA ENTERTAINMENT COMPANY, LIMITED, a Hong Kong corporation (Unit 2508A, 25/F Bank of America, Tower 12 Harcourt Road Central, Hong Kong, China); and DOES 1-10

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: Daniel C. Posner, Quinn Emanuel Urquhart & Sullivan, LLP, 865 S. Figueroa St., 10th Fl., Los Angeles, CA 90017

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*CLERK OF COURT*

Date: _____

_____

*Signature of Clerk or Deputy Clerk*

AO-440

Civil Action No.

**PROOF OF SERVICE**

***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4(l))***

This summons for *(name of individual and title, if any)* _____

was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____

_____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____

_____ , a person of suitable age and discretion who resides there,

on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is

designated by law to accept service of process on behalf of *(name of organization)* _____

_____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*:

My fees are $ 0.00 for travel and $ 0.00 for services, for a total of $ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

_____
*Server's signature*

_____
*Printed name and title*

_____
*Server's address*

Additional information regarding attempted service, etc:

QUINN EMANUEL URQUHART & SULLIVAN, LLP
Bruce E. Van Dalsem (Bar No. 124128)
brucevandalsem@quinnemanuel.com
Ryan S. Goldstein (Bar No. 208444)
ryangoldstein@quinnemanuel.com
Daniel C. Posner (Bar No. 232009)
danposner@quinnemanuel.com
Ryan Q. Keech (Bar No. 280306)
ryankeech@quinnemanuel.com
865 South Figueroa Street, 10th Floor
Los Angeles, California 90017-2543
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Attorneys for TSUBURAYA PRODUCTIONS CO., LTD.

quinn emanuel

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

WESTERN DIVISION

| | |
|---|---|
| UM CORPORATION, a Japanese corporation,<br><br>Plaintiff,<br><br>vs.<br><br>TSUBURAYA PRODUCTIONS CO., LTD., a Japanese corporation,<br><br>Defendant. | CASE NO. 2:15-cv-03764-AB-AJW<br><br>**TSUBURAYA PRODUCTIONS CO., LTD.'S ANSWER, AFFIRMATIVE DEFENSES AND COUNTERCLAIMS FOR:**<br><br>**1. COPYRIGHT INFRINGEMENT**<br>**2. DECLARATORY RELIEF**<br><br>**DEMAND FOR JURY TRIAL** |

TSUBURAYA PRODUCTIONS CO., LTD., a Japanese corporation,

Counterclaimant,

vs.

UM CORPORATION, a Japanese corporation; ULTRAMAN USA, INC., a California corporation; SOMPOTE SAENGDUENCHAI, a Thai individual; GOLDEN MEDIA GROUP, INC., a California corporation; TIGA ENTERTAINMENT COMPANY, LTD., a Hong Kong corporation; and DOES 1-10,

Counterdefendants.

Assigned to: Hon. André Birotte, Jr.
Trial Date: None Set

quinn emanuel

**ANSWER**

Defendant TSUBURAYA PRODUCTIONS CO., LTD. ("Tsuburaya"), by and through its counsel, answers the Complaint of plaintiff UM CORPORATION ("Plaintiff") as follows. Unless specifically admitted herein, Tsuburaya denies each of the allegations of Plaintiff's Complaint and specifically denies that Plaintiff is entitled to any relief whatsoever.

1. Answering paragraph 1 of the Complaint, Tsuburaya admits that it claims intellectual property rights in works based on the superhero Ultraman, is without knowledge or information sufficient to form a belief as to the authenticity of the images depicted in purported Figures 1 and 2 and thus denies the same, and denies the truth of the remaining allegations set forth therein. Tsuburaya further denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

2. Answering paragraph 2 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

3. Answering paragraph 3 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

4. Answering paragraph 4 of the Complaint, Tsuburaya admits that it is a corporation incorporated under the laws of Japan, with its principal place of business in Tokyo, Japan, that it engages in the business of developing, producing, distributing, and selling motion pictures, among other works, and denies the truth of the remaining allegations set forth therein.

5. Answering paragraph 5 of the Complaint, Tsuburaya admits only for purposes of this action that this Court may exercise personal jurisdiction over it, and denies the truth of the remaining allegations set forth therein.

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6. Answering paragraph 6 of the Complaint, Tsuburaya admits that this Court has subject-matter jurisdiction over the Copyright Act claims in this action pursuant to 28 U.S.C. §§ 1331 and 1338, and denies the truth of the remaining allegations set forth therein.

7. Answering paragraph 7 of the Complaint, Tsuburaya admits only for purposes of this action that venue is proper in this district, and denies the truth of the remaining allegations set forth therein.

8. Answering paragraph 8 of the Complaint, Tsuburaya admits the allegations set forth therein, but denies the truth of the allegation made in Plaintiff's bold-text heading set forth immediately above paragraph 8.

9. Answering paragraph 9 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

10. Answering paragraph 10 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

11. Answering paragraph 11 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them. Tsuburaya further denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

12. Answering paragraph 12 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them. Tsuburaya further denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

13. Answering paragraph 13 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

14. Answering paragraph 14 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the

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allegations set forth therein and, on that basis, denies them, and further denies the truth of the allegation made in Plaintiff's bold-text heading set forth immediately above paragraph 14.

15. Answering paragraph 15 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

16. Answering paragraph 16 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

17. Answering paragraph 17 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

18. Answering paragraph 18 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

19. Answering paragraph 19 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

20. Answering paragraph 20 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

21. Answering paragraph 21 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them, and specifically denies the truth of the allegation made in Plaintiff's bold-text heading set forth immediately above paragraph 21.

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22. Answering paragraph 22 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

23. Answering paragraph 23 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

24. Answering paragraph 24 of the Complaint, Tsuburaya denies that it is illegally airing any works, and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth therein and, on that basis, denies them.

25. Answering paragraph 25 of the Complaint, Tsuburaya admits that on September 13, 2014, Kei Minamitani, an employee of Tsuburaya, sent an e-mail message to Randall Green asserting Tsuburaya's rightful ownership of all intellectual property rights in the ULTRA Q television series, and denies the truth of the remaining allegations set forth therein.

26. Answering paragraph 26 of the Complaint, Tsuburaya admits the allegations set forth therein.

27. Answering paragraph 27 of the Complaint, Tsuburaya admits that on October 22, 2014, Shinichi Ooka, a representative of Tsuburaya, sent a letter to Randall Green denying any purported legal authority of Veranda and Plaintiff to exploit works based on the Ultraman superhero and asserting Tsuburaya's rights to the Ultraman superhero, and denies the truth of the remaining allegations set forth therein.

28. Answering paragraph 28 of the Complaint, Tsuburaya admits that it has broadly asserted ownership rights in intellectual property based on the Ultraman superhero worldwide, and denies the truth of the remaining allegations set forth therein.

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29. Answering paragraph 29 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

30. Answering paragraph 30 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

31. Answering paragraph 31 of the Complaint, Tsuburaya admits that Plaintiff has purported to license and exploit Ultraman works in the United States, and is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations set forth therein and, on that basis, denies them.

32. Answering paragraph 32 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them. Tsuburaya further denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

**FIRST CAUSE OF ACTION**

**COPYRIGHT INFRINGEMENT**

**17 U.S.C. § 501 *et seq.***

33. Answering paragraph 33 of the Complaint, Tsuburaya incorporates herein by reference its responses to the allegations in paragraphs 1 through 32 of the Complaint as though fully set forth herein.

34. Answering paragraph 34 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

35. Answering paragraph 35 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

36. Answering paragraph 36 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.



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37. Answering paragraph 37 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

38. Answering paragraph 38 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff has any rights in any Ultraman works in the United States or that Tsuburaya has violated any such alleged rights.

39. Answering paragraph 39 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

40. Answering paragraph 40 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

41. Answering paragraph 41 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

**SECOND CAUSE OF ACTION**

**BREACH OF CONTRACT**

42. Answering paragraph 42 of the Complaint, Tsuburaya incorporates herein by reference its responses to the allegations in paragraphs 1 through 41 of the Complaint as though fully set forth herein.

43. Answering paragraph 43 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

44. Answering paragraph 44 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

45. Answering paragraph 45 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

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46. Answering paragraph 46 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

**THIRD CAUSE OF ACTION**

**INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS**

47. Answering paragraph 47 of the Complaint, Tsuburaya incorporates herein by reference its responses to the allegations in paragraphs 1 through 46 of the Complaint as though fully set forth herein.

48. Answering paragraph 48 of the Complaint, Tsuburaya is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations set forth therein and, on that basis, denies them.

49. Answering paragraph 49 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

50. Answering paragraph 50 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein.

51. Answering paragraph 51 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

52. Answering paragraph 52 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

**FOURTH CAUSE OF ACTION**

**DECLARATORY RELIEF**

**(28 U.S.C. § 2201)**

53. Answering paragraph 53 of the Complaint, Tsuburaya incorporates herein by reference its responses to the allegations in paragraphs 1 through 52 of the Complaint as though fully set forth herein.



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54. Answering paragraph 54 of the Complaint, Tsuburaya admits that an actual controversy exists between it and Plaintiff as to the ownership of rights in works pertaining to the superhero Ultraman, and denies the truth of the remaining allegations set forth therein.

55. Answering paragraph 55 of the Complaint, Tsuburaya admits the truth of the allegations set forth therein.

56. Answering paragraph 56 of the Complaint, Tsuburaya denies the truth of the allegations set forth therein, and specifically denies that Plaintiff is entitled to any relief whatsoever.

**PRAYER FOR RELIEF**

In response to Plaintiff's prayer for relief, Tsuburaya denies that Plaintiff is entitled to any relief whatsoever, whether as prayed for in the Complaint or otherwise.

**AFFIRMATIVE DEFENSES**

Tsuburaya alleges and asserts the following affirmative defenses in further response to Plaintiff's Complaint, while not agreeing or conceding that it bears the burden of proof or the burden of persuasion on any of these issues, whether in whole or in part. Tsuburaya reserves the right to assert additional defenses, affirmative or otherwise, based on legal theories which may or will be divulged through clarification of the Complaint, through discovery, through change or clarification of the governing law or through further legal analysis of Plaintiff's positions in this litigation.

**First Affirmative Defense**

Plaintiff's Complaint fails to state a claim upon which relief can be granted.

**Second Affirmative Defense**

Plaintiff has no valid, enforceable or protectable rights or interest in some or all of the alleged copyrights or other matters asserted.

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**Third Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the fact that Plaintiff's claims are based on fraudulent documents and/or documents that were procured by fraud.

**Fourth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by Plaintiff's unclean hands.

**Fifth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by virtue of Tsuburaya's independent prior creation of the elements and other matters asserted in Plaintiff's Complaint.

**Sixth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by its lack of standing.

**Seventh Affirmative Defense**

Plaintiff's claims are barred in whole or in part by the applicable statutes of limitation and the doctrine of laches.

**Eighth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by the doctrines of waiver, estoppel, acquiescence and abandonment.

**Ninth Affirmative Defense**

Plaintiff's state-law claims are preempted in whole or in part by the Copyright Act.

**Tenth Affirmative Defense**

Plaintiff's claims are barred in whole or in part by the doctrines of *res judicata* and collateral estoppel.

**Eleventh Affirmative Defense**

Plaintiff's claims are barred because the contract pursuant to which Plaintiff asserts rights and seeks relief has been terminated and/or is otherwise invalid under Japanese law.



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**Twelfth Affirmative Defense**

Plaintiff has failed to mitigate its damages, if any.

**Thirteenth Affirmative Defense**

Plaintiff's damages, if any, were not caused by Tsuburaya and are otherwise not attributable to the acts or omissions of Tsuburaya.

**Fourteenth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by Plaintiff's failure to apply to register the copyrights in some or all of the allegedly infringed works with the United States Copyright Office.

**Fifteenth Affirmative Defense**

Plaintiff's claims, including, without limitation, Plaintiff's claims based upon alleged extra-territorial acts that occurred outside the United States, are barred in whole or in part by lack of subject matter jurisdiction.

**Sixteenth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the doctrine of illegality and the fact that Plaintiff's actions violate applicable law.

**Seventeenth Affirmative Defense**

Plaintiff's claims are barred, in whole or in part, by the freedom of speech protected by the First Amendment to the Constitution of the United States.

**Eighteenth Affirmative Defense**

Plaintiff's requests for punitive and/or enhanced damages are barred in whole and in part because all of Tsuburaya's acts were undertaken in good faith and because Plaintiff fails to plead facts showing an entitlement to an award of punitive and/or enhanced damages.

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## COUNTERCLAIMS

For its counterclaims, counterclaimant Tsuburaya Productions Co., Ltd. ("Tsuburaya") complains and alleges as follows against counterdefendants UM Corporation ("UM"); Ultraman USA, Inc. ("Ultraman USA"); Sompote Saengduenchai ("Sompote"); Golden Media Group, Inc. ("Golden Media Group"); TIGA Entertainment Company, Ltd. ("TIGA"); and DOES 1-10 (collectively, "Counterdefendants"):

## NATURE OF THE ACTION

1. In this action, Tsuburaya is the party that has been wronged by Counterdefendants' unlawful display, reproduction and distribution of its highly creative copyrighted works, and it is thus Tsuburaya that is entitled to relief.

2. There is no dispute that Tsuburaya created multiple films and other original works of authorship based on the Ultraman superhero character, beginning in 1966 (including the works in the "Ultraman Library," as defined in Paragraph 28 below). There is no dispute that the works in the Ultraman Library are highly original and are subject to copyright protection in the United States. There is no dispute that the works in the Ultraman Library—and the characters depicted therein—have been beloved for decades by fans all around the world.

3. But even given all of these undisputed facts, counterdefendant UM has come to this Court seeking a judicial stamp of approval for Counterdefendants' multiple acts of copyright infringement relating to the Ultraman Library in the United States, claiming that a purported document dating from 1976—one that has *already been determined* to be a forgery in the courts of at least one foreign country—somehow gives Counterdefendants the right as "licensees" in a fraudulent "chain of title" to unlawfully display, publicly perform, license, create derivative works based on, and otherwise exploit the Ultraman Library in the United States, and further to demand that Tsuburaya refrain from exploiting its *own* intellectual property in the United States.

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4. Counterdefendants' elaborate smokescreen notwithstanding, it is *Counterdefendants* who have no right to display, perform, license or otherwise exploit the Ultraman Library. The Ultraman Library consists of original works of authorship that constitute the copyrighted intellectual property of Tsuburaya. And as Tsuburaya has not authorized Counterdefendants to utilize its copyrighted material, Counterdefendants are engaged in ongoing copyright infringement in the United States. Accordingly, Tsuburaya brings these counterclaims to put a stop to Counterdefendants' ongoing infringement and to obtain a judgment declaring it to be the rightful owner of all copyrights in the Ultraman Library.

**THE PARTIES**

5. Tsuburaya is a corporation organized under the laws of Japan, with its principal place of business in Tokyo, Japan, that is engaged in the production and distribution of motion pictures and related entertainment products and services.

6. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant UM is a corporation organized under the laws of Japan, with its principal place of business in Tokyo, Japan.

7. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant Ultraman USA is a corporation organized under the laws of the State of California, with its principal place of business in Rowland Heights, California.

8. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant Sompote is or has been associated with counterdefendants UM and Ultraman USA, and is a resident and citizen of Thailand.

9. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant TIGA is a corporation organized under the laws of Hong Kong, with its principal place of business in Hong Kong.

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10. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant Golden Media Group is a corporation organized under the laws of the State of California, with its principal place of business in Newhall, California.

11. Tsuburaya is ignorant of the true names and capacities of the counterdefendants who are named herein under the fictitious names DOES 1-10, inclusive. Tsuburaya will seek leave of the Court to amend its counterclaims to allege their true names and capacities when ascertained. Tsuburaya is informed and believes, and thereupon alleges, that each of the fictitiously named DOE counterdefendants is responsible in some manner for the wrongful conduct alleged herein. Tsuburaya is further informed and believes, and thereupon alleges, that each DOE counterdefendant acted in concert and participation with, as agent of or representative for, at the request of, or on behalf of UM, Ultraman USA, Sompote, and/or TIGA and/or Golden Media Group, who were agents of one another at all relevant times. Each charge and allegation alleged herein is, therefore, also hereby alleged against each fictitiously named DOE counterdefendant.

12. Tsuburaya is further informed and believes, and thereupon alleges, that in performing the acts alleged herein, each counterdefendant acted in concert and participation with, as agent or representative for, at the request of, in concert with, or on behalf of every other counterdefendant. Each allegation made herein is, therefore, also made against each and every counterdefendant.

## JURISDICTION AND VENUE

13. Tsuburaya's counterclaims arise under the Copyright Act, 17 U.S.C. §§ 106 and 501. Additionally, this Court has federal subject matter jurisdiction over Tsuburaya's counterclaims pursuant to 28 U.S.C. §§ 1331 and 1338(a).

14. This Court may exercise personal jurisdiction over counterdefendants Ultraman USA and Golden Media Group because, on information and belief, they are incorporated in, have their principal place of business in, and/or are otherwise citizens or residents of this district. This Court may exercise personal jurisdiction



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over counterdefendant UM because UM has filed suit against Tsuburaya in this Court and thereby has submitted to the personal jurisdiction of this Court. This Court may exercise personal jurisdiction over counterdefendants Sompote and TIGA because, on information and belief, they have disseminated and published motion pictures in Los Angeles, targeted customers in this district, and have reached out to businesses in this district to infringe Tsuburaya's intellectual property rights, with actual knowledge that such conduct has caused or is substantially likely to cause injury to Tsuburaya in this district.

15. Venue lies in this district pursuant to 28 U.S.C. §§ 1391(b)(2) and 1400(a), as Counterdefendants may be found in, are subject to personal jurisdiction in, and a substantial part of the events or omissions giving rise to Tsuburaya's counterclaims occurred in, this district.

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## FACTUAL ALLEGATIONS

### Tsuburaya and the Ultraman Library

16. Founded in 1963 by renowned Japanese filmmaker (and *Godzilla* co-creator) Eiji Tsuburaya, Tsuburaya is a highly-regarded Japanese entertainment company that, as relevant to this action, is engaged in the planning, production, distribution, sales and licensing of motion pictures and television programs and technical services for motion picture and television productions, all on a worldwide basis.

17. Beginning in 1964, Tsuburaya created and produced *Ultra Q*, a 28-episode *tokusatsu* (special-effects based) science-fiction television series, executive produced by Eiji Tsuburaya, featuring continuing characters investigating supernatural phenomena like giant monsters, aliens, ghosts and other associated calamities. The series was successful, and originally aired from January 2 to July 3, 1966 on the Tokyo Broadcasting System.

18. Building off the success of *Ultra Q*, in 1966, Tsuburaya created and released *Ultraman*, a 39-episode follow-up to the television series *Ultra Q* airing on the Tokyo Broadcasting System from July 17, 1966 through April 9, 1967.

19. *Ultraman*, which was to become the genesis of a highly successful pop culture phenomenon in Japan and abroad, was the first series to incorporate the enormously popular superhero character "Ultraman."

20. In the *Ultraman* series (as in its follow-up series described below), "Ultraman" is depicted as a red-and-silver member of a team of extra-planetary "Ultramen" heros, with glowing yellow eyes, who takes on a giant form and heroically defends planet Earth against the scourge posed by existential threats from everything from giant monsters to evil space aliens. An image from an episode of the *Ultraman* series—showing Ultraman, on the left, defending against a giant monster, on the right—is depicted below:

21. *Ultraman*'s success was followed by Tsuburaya's creation and production of *Ultra Seven*, a 49-episode version of the *Ultraman* franchise that aired on Japanese television between October 1, 1967 and September 8, 1968.

22. In *Ultra Seven*, Tsuburaya's "Ultra Seven"—a version of Tsuburaya's "Ultraman"—was also depicted as a red-and-silver superhero who defended the Earth against extraterrestrial threats. An image of "Ultra Seven" from the *Ultra Seven* series is depicted below:

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23. *Ultra Q*, *Ultraman* and *Ultra Seven* were followed by still more Tsuburaya Ultraman hit productions. In 1971, Tsuburaya created and produced *The Return of Ultraman*, a 51-episode Ultraman series that aired from 1971 to 1972 on the Tokyo Broadcasting System and followed the heroic efforts of Tsuburaya's "New Ultraman" or "Ultraman Jack," who—supervised and often assisted by Tsuburaya's "Ultraman" and "Ultra Seven"—is also depicted in a substantially similar red and silver suit taking on a giant form to fight monsters and aliens on planet Earth. An image of "Ultraman Jack" is depicted below.

24. The next chapter in Tsuburaya's Ultraman series was *Ultraman Ace*, a 52-episode version of the Ultraman series airing on the Tokyo Broadcasting System from April 7, 1972 to March 30, 1973. In *Ultraman Ace*, Tsuburaya's "Ultraman," "Ultra Seven," "Ultraman Jack," and "Ultraman Ace" defend the Earth against Yapool, an alien mastermind who sought to conquer the planet with experiments and super weapons. An image of Tsuburaya's "Ultraman Ace" is depicted below:



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25. In 1973, Tsuburaya created, produced and released *Ultraman Taro*, the next installment in the Ultraman series, which aired in 53 episodes on the Tokyo Broadcasting System from April 6, 1973 through April 5, 1974. In *Ultraman Taro*, "Ultraman Taro" joined Tsuburaya's "Ultraman," "Ultra Seven," "Ultraman Jack," and "Ultraman Ace" to defeat enemies that included monsters and aliens threatening planet Earth. "Ultraman Taro" brought a series of improved weapons to the Ultraman series. An image of Tsuburaya's Ultraman Taro is depicted below:

26. In 1973, Tsuburaya supplemented its Ultraman success—and celebrated its tenth anniversary—with its creation and production of the *Jumborg Ace* series, another *tokusatsu* television series, which was comprised of 50 episodes airing on the Japanese Mainichi Broadcasting system from January 17 to December 29, 1973. *Jumborg Ace* followed the efforts of "Jumborg Ace," a giant cyborg, as he defended the Earth against extraterrestrial threats. An image of "Jumborg Ace" is below.



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27. *Ultra Q*, *Ultraman*, *Ultra Seven*, *The Return of Ultraman*, *Ultraman Ace*, *Ultraman Taro*, and *Jumborg Ace*—and the fearless characters depicted therein, including "Ultraman," "Ultra Seven," "New Ultraman/Ultraman Jack," "Ultraman Ace," "Ultraman Taro" and "Jumborg Ace"—were and remain wildly popular both in Japan and abroad, including in the United States.

28. Tsuburaya's original Ultraman works and characters have inspired and continue to inspire a generation of derivative Ultraman works by Tsuburaya that remain extremely popular in Japan and the United States, as well as elsewhere. They include television programs, films, animated programs, children's programs, television specials, books and even video games. Tsuburaya has created works based on the Ultraman characters and stories that are specifically intended for U.S. or other foreign audiences, such as a motion picture called "Ultraman—The Adventure Begins," and a television series called "Ultraman: Towards the Future." All the Ultraman works and characters created by Tsuburaya are collectively referred to herein as the "Ultraman Library."

29. The Ultraman Library consists of original works of authorship created and owned by Tsuburaya. Prior to filing its counterclaims in this action, Tsuburaya obtained copyright registration in and/or filed applications with the United States Copyright Office to register the copyrights in a number of works contained in the Ultraman Library, including *Ultraman—The Adventure Begins* (Registration No. PA 351-884); *Ultraman—Towards the Future* (Registration Nos. PA 571-679, PA 571-680, PA 571-684, PA 571-685, PA 571-716, PA 571-717, PA 571-718, PA 571-719, PA 571-720, PA 571-721, PA 571-722, PA 571-723, and PA 571-724); and all

episodes in the series of *Ultra Q*, *Ultraman*, *Ultra Seven*, *The Return of Ultraman*, *Ultraman Ace*, *Ultraman Taro*, and *Jumborg Ace* (applications for registration of which were filed in the United States Copyright Office on September 9 and 10, 2015, and remain pending).

**Counterdefendants' Infringement of the Ultraman Works**

30. In or about 1973, Tsuburaya and Chaiyo Productions ("Chaiyo")—a Thai entity that Tsuburaya is informed and believes, and thereupon alleges, was and is controlled by counterdefendant Sompote—co-created and released *Jumborg Ace & Giant*, a *tokusatsu* science fiction film that depicted Tsuburaya's "Jumborg Ace" teaming up with a giant stone idol from Thailand against Tsuburaya's "Jumborg Ace" enemies.

31. In or about 1974, Tsuburaya and Chaiyo co-created and released *The 6 Ultra Brothers vs. the Monster Army*, a *tokusatsu* science fiction film that depicted Tsuburaya's "Ultraman," "Ultra Seven," "Ultraman Jack," "Ultraman Ace," and "Ultraman Taro" teaming up with "Hanuman," a fusion of a Thai diety and young boy, to fight (and eventually defeat) evil monsters who threatened the Earth's existence.

32. It would eventually become clear that counterdefendant Sompote—seeing the success of Tsuburaya's Ultraman Library—would not be satisfied with his authorized involvement in co-producing *Jumborg Ace & Giant* and *The 6 Ultra Brothers vs. the Monster Army* with Tsuburaya. Tsuburaya is informed and believes, and thereupon alleges, that Sompote and/or those affiliated with him falsified a document claiming to have been dated in or about 1976 purporting to grant Sompote certain copyright and/or trademark rights in certain works contained in the Ultraman Library as an exclusive licensee in all territories except Japan (the "1976 Document").

33. Using the fraudulent 1976 Document to justify a global campaign of unlawful profiteering and wholesale copyright infringement of the Ultraman



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Library, Sompote and his affiliated entities have already tried—and failed—to use the 1976 Document to erase Tsuburaya's claims to the copyrights in the Ultraman Library in other countries. For example, Sompote's claims based on the 1976 Document were soundly rejected by the Thai Supreme Court in 2008, which refused to recognize the 1976 Document and rejected Sompote's and his affiliated entities' claims of infringement based thereon.

34. Tsuburaya is informed and believes, and thereupon alleges, that Sompote was charged and later convicted of perjury in Thailand based on his usage of the 1976 Document in Thai proceedings. Tsuburaya is informed and believes, and thereupon alleges, that in or about June 2014, Sompote was found guilty in the first instance of perjury, sentenced to two years in prison, and fined 14,000 baht (Thai currency) for his use of the 1976 Document in Thai proceedings, after which time the Thai court ordered the production of the original of the 1976 Document.

35. Despite these setbacks, and despite losing his claims in foreign venues, Tsuburaya is informed and believes, and thereupon alleges, that Sompote's baseless efforts to profit from Tsuburaya's creativity and erase Tsuburaya's copyrights have now reached American shores. Specifically, Tsburuaya is informed and believes, and thereupon alleges, that Sompote and/or his co-counterdefendants have continued to use the 1976 Document to create an elaborate and fraudulent "chain of title" implicating extensive acts of copyright infringement in the United States.

36. Tsuburaya is informed and believes, and thereupon alleges, that Sompote first transferred his purported interest in the 1976 Document through an individual named Perasit Saengduenchai to counterdefendant UM, an affiliate of Sompote, which is using these rights to unlawfully grant purported licenses to the Ultraman Library in the United States, China, Hong Kong, Taiwan, and Malaysia, and develop derivative characters based on the Ultraman Library in all of these countries.

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37. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant UM submitted fraudulent applications to the United States Copyright Office to register four works in the Ultraman Library.

38. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendants Sompote and/or UM are creating a motion picture based on the Ultraman Library for distribution in China, Asian countries other than Japan, and the United States.

39. Tsuburaya is informed and believes, and thereupon alleges, that counterdefendant UM has purported to use counterdefendant TIGA to further unlawfully license Tsuburaya's Ultraman Library in the United States to other companies, including counterdefendant Golden Media Group and DOES 1-10, and that UM, TIGA, Golden Media Group and DOES 1-10 are working together to unlawfully publicly display, publicly perform, license and otherwise exploit the Ultraman Library in the United States and in this district, including through YouTube, motion pictures, licensing agreements, and other violations of Tsuburaya's intellectual property rights.

40. Tsuburaya is informed and believes, and thereupon alleges, that in or before October of 2014, counterdefendants UM and/or Golden Media Group unlawfully licensed episodes from Tsuburaya's Ultraman Library to one or more third parties so that those episodes could be uploaded to YouTube. At or about the same time, Tsuburaya notified the third parties of the fact that Tsuburaya is the sole copyright owner of the Ultraman Library, a fact that Counterdefendants disputed and continue to dispute based on the 1976 Document.

41. Tsuburaya is informed and believes, and thereupon alleges, that in or about November 2013, counterdefendant Sompote released a book comprised of images and text in the United States under the title of "Ultraman Forever," including multiple images and characters ripped directly from the Ultraman Library, and at the same time, traveled to Los Angeles for the purpose of unlawfully claiming

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ownership of and otherwise unlawfully publicly displaying, publicly performing, licensing and exploiting the Ultraman Library. Tsuburaya is informed and believes, and thereupon alleges, that at or around this time, Sompote announced in Los Angeles, in reliance on the 1976 Document, that he was given a license to the Ultraman Library outside of Japan.

42. Tsuburaya is informed and believes, and thereupon alleges, that on or about May 10, 2015—at or around the time counterdefendant UM brought this action—Sompote held an event in Los Angeles at which he announced the formation of counterdefendant Ultraman USA to exploit the Ultraman Library in the United States. At the event, counterdefendant Sompote announced that he would be using counterdefendant Ultraman USA (and, presumably, other counterdefendants) to release *Ultra Q*, *Ultraman*, *Ultra Seven*, *Return of Ultraman*, *Ultraman Ace*, *Ultraman Taro* and *Jumborg Ace*—in short, a substantial part of the Ultraman Library—on Blu-Ray disc in the United States. The event featured numerous depictions of the Ultraman Library in plain violation of Tsuburaya's reproduction, public display, public performance and derivative works rights.

43. Tsuburaya is further informed and believes, and thereupon alleges, that counterdefendants UM, Sompote, Ultraman USA and Golden Media Group are presently engaged in other or further violations of Tsuburaya's reproduction, public display, public performance and derivative works rights in the Ultraman Library in the United States, including through uploading images or videos taken from the Ultraman Library on the Internet and on YouTube, negotiating for the production of and producing motion pictures in the United States, creating derivative works based on the Ultraman Library in the United States (including toys and other merchandise) and making profits on all of the above-referenced activity.

44. Contrary to Counterdefendants' allegations, at no point in time has Tsuburaya transferred ownership of, or licensed, the Ultraman Library to Counterdefendants. Accordingly, without authorization, Counterdefenadnts have

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distributed, reproduced, publicly displayed and publicly performed the Ultraman Library, and continue to do so. Such ongoing activity constitutes clear copyright infringement.

45. Tsuburaya brings its counterclaims to put a stop to Counterdefendants' ongoing infringing infringement of the Ultraman Library.

**FIRST COUNTERCLAIM FOR RELIEF**

(Copyright Infringement against all Counterdefendants)

(17 U.S.C. §§ 106 *et seq.* and 501)

46. Tsuburaya repeats and realleges each and every allegation above as if fully set forth herein.

47. The Ultraman Library consists of original, creative works that constitute copyrightable subject matter under the Copyright Act, 17 U.S.C. § 101 *et seq.* At all relevant times, Tsuburaya has owned all applicable right, title and interest in and to these works, and Tsuburaya has applied to the United States Copyright Office for and/or obtained registration of a number of them (collectively, the "Copyrighted Works"), which registrations constitute *prima facie* evidence of the validity of Tsuburaya's copyrights and of the facts stated in the certificates.

48. Counterdefendants have infringed and are continuing to infringe the Copyrighted Works, including by copying, distributing, publicly displaying and publicly performing the Ultraman Library without Tsuburaya's authorization. Counterdefendants have thus violated and are violating Tsuburaya's exclusive rights under 17 U.S.C. § 106. On information and belief, Counterdefendants have also engaged in contributory and vicarious infringement of Tsuburaya's Copyrighted Works. Tsuburaya is informed and believes, and thereupon alleges, that Counterdefendants' infringements have been deliberate and willful.

49. As a direct and proximate result of Counterdefendants' infringement, Tsuburaya has suffered, and will continue to suffer, actual damages. Tsuburaya is informed and believes, and thereupon alleges, that Counterdefendants have also

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realized unjust profits, gains and advantages as a proximate result of their infringements. Tsuburaya is entitled to its actual damages and any gains, profits and advantages obtained by Counterdefendants as a result of their acts of infringement. Alternatively, at Tsuburaya's election, it is entitled to an award of the maximum statutory damages as permitted by the Copyright Act, 17 U.S.C. § 504(c).

50. Tsuburaya has no adequate remedy at law for the injuries currently being suffered, and the additional injuries that are threatened, by Counterdefendants' infringements. Counterdefendants will continue to engage in their wrongful conduct and Tsuburaya will continue to suffer irreparable injury that cannot be adequately remedied at law unless defendants are enjoined from engaging in any further such acts of infringement. Accordingly, Tsuburaya is entitled to an injunction restraining Counterdefendants from engaging in any further such acts in violation of the United States copyright laws, 17 U.S.C. § 502.

**SECOND COUNTERCLAIM FOR RELIEF**

(Declaratory Relief against all Counterdefendants)

51. Tsuburaya repeats and realleges each and every allegation above as if fully set forth herein.

52. Tsuburaya, on the one hand, and Counterdefendants, on the other hand, actively dispute, and an actual controversy exists as to, the rights and obligations of the parties as to the Copyrighted Works, including the Ultraman Library, that were created by Tsuburaya.

53. Tsuburaya believes that it is and remains the exclusive owner of any and all rights in the Copyrighted Works and that Counterdefendants have no right to distribute, reproduce, display or create derivative works from these works. Tsuburaya is informed and believes, and thereupon alleges, that Counterdefendants dispute all of this, and do so based on the 1976 Document.

54. Accordingly, Tsuburaya seeks a declaratory judgment that (1) Tsuburaya is the exclusive owner of any and all rights in the Copyrighted Works,



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and Counterdefendants have no rights to distribute, reproduce, display or create derivative works from these works; (2) the 1976 Document is of no force or effect; and (3) Tsuburaya has no obligations to Counterdefendants.

**PRAYER FOR RELIEF**

WHEREFORE, Tsuburaya prays for and requests that the Court enter judgment for Tsuburaya by:

1. Awarding Tsuburaya all damages that it has sustained or will sustain by reason of Counterdefendants' conduct and all profits that Counterdefendants have derived from such conduct, or in lieu thereof, such statutory damages as provided by law;

2. Granting injunctive relief restraining Counterdefendants from directly or indirectly violating Tsuburaya's rights under the Copyright Act, including by further distributing or purporting to license any works in the Ultraman Library or otherwise infringing Tsuburaya's exclusive rights in the Copyrighted Works;

3. Declaring that (1) Tsuburaya is the exclusive owner of any and all rights in the Copyrighted Works, and Counterdefendants have no rights to distribute, reproduce, display or create derivative works from these works; (2) the 1976 Document is of no force or effect; and (3) Tsuburaya has no obligations to Counterdefendants.

4. Awarding Tsuburaya its costs of suit and reasonable attorneys' fees, as well as pre-judgment and post-judgment interest; and

5. Granting all such further and additional relief, in law or in equity, to which Tsuburaya may be entitled or which the Court deems just and proper.

quinn emanuel

DATED: September 11, 2015

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Daniel C. Posner
Daniel C. Posner
Attorneys for TSUBURAYA PRODUCTIONS CO. LTD.

quinn emanuel

**DEMAND FOR JURY TRIAL**

Tsuburaya hereby demands a jury trial of all issues in Plaintiff's claims and Tsuburaya's counterclaims that are triable to a jury.

DATED: September 11, 2015

QUINN EMANUEL URQUHART & SULLIVAN, LLP

By /s/ Daniel C. Posner
Daniel C. Posner
Attorneys for TSUBURAYA PRODUCTIONS CO. LTD.

quinn emanuel

AO 440（修訂版 06/12）民事訴訟傳票

美國聯邦地方法院

加州中心區

| | | |
|---|---|---|
| 圓谷製作株式會社，日本公司<br><br>反申索 *原告人*<br>與<br>UM CORPORATION，日本公司，等等（見附件）<br><br>反申索 *被告人* | ) | **民事訴訟號** 2:15-cv-03764-AB-AJW |

## 民事訴訟傳票

被傳喚人：*（被告人的姓名及地址）*

UM CORPORATION，日本公司（由必百瑞律師事務所轉交，725 S. Figueroa St., Suite 2800, Los Angeles, CA 90017）；ULTRAMAN USA, INC.，加州公司（2226 Lerona Ave., Rowland Heights CA 91748）；SOMPOTE SAENGDUENCHAI，泰國人（99/9 Moo 8 Phaol yothin Rd., Km. 52 Chiengknoi Bangpa-In Bang Pa-in Phra Nakhon Si Ayutthaya, 13160 Thailand）；GOLDEN MEDIA GROUP, INC.，加州公司（19553 Mesa of the Oaks, Newhall CA 91321）；TIGA ENTERTAINMENT COMPANY, LIMITED，香港公司（中國香港中環夏慤道 12 號美國銀行中心 25 樓 2508A 室）；及DOES 1-10

閣下已被起訴。

在向閣下送達本傳票後21天（不包括閣下收到本傳票當天）——或60天（若閣下是美國或美國機構，或者《聯邦民事訴訟規則》第 12(a)(2) 或 (3) 條中所述的美國人員或僱員）內——閣下必須根據《聯邦民事訴訟規則》第 12 條向原告人送達對隨附申訴的答辯書或動議。答辯書或動議必須送達原告人或原告人的代理律師，其姓名及地址為：Daniel C. Posner, Quinn Emanuel Urquhart & Sullivan, LLP, 865 S. Figueroa St., 10th Fl., Los Angeles, CA 90017

若閣下未能作出回應，對申訴中要求的濟助作出的默認判決將對閣下不利。閣下還必須向法院提交自己的答辯書或動議。

*法院書記*

[簽名: J.Lam]

日期：2015 年 9 月 22 日　　書記或副書記的簽名

[蓋章:美國聯邦地方法院加州中心區]

AO 440（修訂版 06/12）民事訴訟傳票（第 2 頁）

民事訴訟號

**送達證明**

*（除非《聯邦民事訴訟規則》第 4(l) 條要求，否則，本部分不應向法院提交）*

本人於（*日期*）_____收到（*個人的姓名及職銜，如有*）_____的本傳票。

☐ 本人於（*日期*）_____親自將傳票送達（*地點*）_____的個人；或

☐ 本人於（*日期*）_____將傳票放在個人的住所或慣常居所，一個年齡適當且有酌情決定權的人士（*姓名*）___居住在那裡，並郵寄一份至個人的最近已知地址；或

☐ 本人於（*日期*）_____向法律指定代表（*機構名稱*）_____接受送達法律程序文件的（*個人姓名*）____送達傳票；或

☐ 由於_____，本人退回未簽立的傳票；或

☐ 其他（*請註明*）：

本人的費用是 0.00 美元旅費及 0.00 美元送達費，共計 0.00 美元。

本人聲明此信息的真實性，如有虛假願受偽證罪處罰。

日期：

_____
*送達人的簽名*

_____
*印刷體姓名及職銜*

_____
*送達人的地址*

關於試圖送達等的附加信息：

昆毅律師事務所
Bruce E. Van Dalsem（律師執業證號 124128）
brucevandalsem@quinnemanuel.com
Ryan S. Goldstein（律師執業證號 208444）
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電話： (213)443-3000
傳真： (213)443-3100

圓谷製作株式會社的律師

昆毅

美國聯邦地方法院
加州中心區
西部法庭

| | |
|---|---|
| UM CORPORATION ，日本公司，<br><br>原告人，<br>與<br><br>圓谷製作株式會社，日本公司，<br><br>被告人。 | 案件號2:15-cv-03764-AB-AJW<br>**圓谷製作株式會社關於以下內容的答辯書、積極抗辯書及反申索書：**<br><br>**1. 侵犯版權**<br>**2. 宣告式濟助**<br><br>**要求陪審團審訊** |

昆毅

圓谷製作株式會社，日本公司，

反申索人，

與

UM CORPORATION，日本公司；ULTRAMAN USA, INC.，加州公司；SOMPOTE SAENGDUENCHAI，泰國人；GOLDEN MEDIA GROUP, INC.，加州公司；TIGA ENTERTAINMENT COMPANY, LTD.，香港公司；及DOES 1-10，

被反申索人。

指派予：André Birotte, Jr. 法官
審訊日期：未定

昆毅律師事務所
Bruce E. Van Dalsem（律師執業證號 124128）
brucevandalsem@quinnemanuel.com
Ryan S. Goldstein（律師執業證號 208444）
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圓谷製作株式會社的律師

昆毅

美國聯邦地方法院
加州中心區
西部法庭

UM CORPORATION，日本公司，

原告人，

與

圓谷製作株式會社，日本公司，

被告人。

案件號 2:15-cv-03764-AB-AJW

圓谷製作株式會社關於以下內容的答辯書、積極抗辯書及反申索書：

1.侵犯版權
2.宣告式濟助

要求陪審團審訊

| | |
|---|---|
| 圓谷製作株式會社，日本公司，<br>反申索人，<br>與<br>UM CORPORATION，日本公司；ULTRAMAN USA, INC.，加州公司；SOMPOTE SAENGDUENCHAI，泰國人；GOLDEN MEDIA GROUP, INC.，加州公司；TIGA ENTERTAINMENT COMPANY, LTD.，香港公司；及 DOES 1-10，<br>被反申索人。 | 指派予：André Birotte, Jr. 法官<br>審訊日期：未定 |

記錄

## 答辯書

被告人圓谷製作株式會社（「圓谷」）經由及透過其律師就原告人 UM CORPORATION（「原告人」）的申訴作出如下答辯。除非在本文中明確承認，圓谷否認原告人申訴的每項指稱並明確否認原告人有權享有任何濟助。

1. 就申訴的第 1 段作出答辯，圓谷承認其對基於超級英雄超人的作品申索知識產權權利，並無足夠知識或資料令人相信聲稱圖 1 及圖 2 中所描繪之圖像的真確性，因此否認其真確性，並否認其中所載餘下指稱的真實性。圓谷進一步否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

2. 就申訴的第 2 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

3. 就申訴的第 3 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

4. 就申訴的第 4 段作出答辯，圓谷承認其是根據日本法律註冊成立的法團，主要營業地點位於日本東京，從事電影及其他作品的開發、製作、分銷及銷售業務，並否認其中所載餘下指稱的真實性。

5. 就申訴的第 5 段作出答辯，僅就本訴訟而言，圓谷承認此法院可對其行使屬人管轄權，並否認其中所載餘下指稱的真實性。

昆毅

6. 就申訴的第 6 段作出答辯，圓谷承認根據《美國法典》第 28 卷第 1331 節及第 1338 節此法院對本訴訟中的《版權法》申索享有屬事管轄權，並否認其中所載餘下指稱的真實性。

7. 就申訴的第 7 段作出答辯，僅就本訴訟而言，圓谷承認審判地定在此區屬恰當，並否認其中所載餘下指稱的真實性。

8. 就申訴的第 8 段作出答辯，圓谷承認其中所載指稱，但否認原告人在緊接第 8 段上面所載粗體文本標題中所作指稱的真實性。

9. 就申訴的第 9 段作出答辯，圓谷否認其中所載指稱的真實性。

10. 就申訴的第 10 段作出答辯，圓谷否認其中所載指稱的真實性。

11. 就申訴的第 11 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。圓谷進一步否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

12. 就申訴的第 12 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。圓谷進一步否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

13. 就申訴的第 13 段作出答辯，圓谷否認其中所載指稱的真實性。

14. 就申訴的第 14 段作出答辯，圓谷並無足夠知識或資料令人相

信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱，並進一步否認原告人在緊接第 14 段上面所載粗體文本標題中所作指稱的真實性。

15. 就申訴的第 15 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

16. 就申訴的第 16 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

17. 就申訴的第 17 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

18. 就申訴的第 18 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

19. 就申訴的第 19 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

20. 就申訴的第 20 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

21. 就申訴的第 21 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱，並明確否認原告人在緊接第 21 段上面所載粗體文本標題中所作指稱的真實性。

22. 就申訴的第 22 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

23. 就申訴的第 23 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

24. 就申訴的第 24 段作出答辯，圓谷否認其非法播出任何作品，並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

25. 就申訴的第 25 段作出答辯，圓谷承認 2014 年 9 月 13 日圓谷的僱員 Kei Minamitani 向 Randall Green 發出一封電子郵件主張圓谷對《地球保衛戰》電視劇中所有知識產權權利的合法所有權，並否認其中所載餘下指稱的真實性。

26. 就申訴的第 26 段作出答辯，圓谷承認其中所載指稱。

27. 就申訴的第 27 段作出答辯，圓谷承認 2014 年 10 月 22 日圓谷的代表 Shinichi Ooka 致函 Randall Green 否認 Veranda 及原告人利用基於超級英雄超人的作品的任何聲稱合法授權並且主張圓谷於超級英雄超人的權利，並否認本文中所載餘下指稱的真實性。

28. 就申訴的第 28 段作出答辯，圓谷承認其曾基於超級英雄超人在世界各地廣泛地主張對知識產權的所有權，並否認本文中所載餘下指稱的真實性。

29. 就申訴的第 29 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

30. 就申訴的第 30 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

31. 就申訴的第 31 段作出答辯，圓谷承認原告人曾聲稱在美國特許及利用超人作品，並無足夠知識或資料令人相信其中所載餘下指稱的真實性或虛假性且在此基礎上否認上述指稱。

32. 就申訴的第 32 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。圓谷進一步否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

昆致

**第一訴因**

**侵犯版權**

**《美國法典》第 17 卷第 501 節及以下各節**

33. 就申訴的第 33 段作出答辯，圓谷透過引用在本文中納入其對申訴第 1 段至第 32 段中所載指稱的回應，猶如在本文中完整載述。

34. 就申訴的第 34 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

35. 就申訴的第 35 段作出答辯，圓谷否認其中所載指稱的真實性。

36. 就申訴的第 36 段作出答辯，圓谷否認其中所載指稱的真實性。

37. 就申訴的第 37 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

38. 就申訴的第 38 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人在美國享有任何超人作品的任何權利或圓谷已違反任何該等指稱權利。

39. 就申訴的第 39 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

40. 就申訴的第 40 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

41. 就申訴的第 41 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

## 第二訴因
## 違約

42. 就申訴的第 42 段作出答辯，圓谷透過引用在本文中納入其對申訴第 1 段至第 41 段中所載指稱的回應，猶如在本文中完整載述。

43. 就申訴的第 43 段作出答辯，圓谷否認其中所載指稱的真實性。

44. 就申訴的第 44 段作出答辯，圓谷否認其中所載指稱的真實性。

45. 就申訴的第 45 段作出答辯，圓谷否認其中所載指稱的真實性。

46. 就申訴的第 46 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

第三訴因

蓄意干擾合約關係

47. 就申訴的第 47 段作出答辯，圓谷透過引用在本文中納入其對申訴第 1 段至第 46 段中所載指稱的回應，猶如在本文中完整載述。

48. 就申訴的第 48 段作出答辯，圓谷並無足夠知識或資料令人相信其中所載指稱的真實性或虛假性且在此基礎上否認上述指稱。

49. 就申訴的第 49 段作出答辯，圓谷否認其中所載指稱的真實性。

50. 就申訴的第 50 段作出答辯，圓谷否認其中所載指稱的真實性。

51. 就申訴的第 51 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

52. 就申訴的第 52 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

第四訴因

宣告式濟助

（《美國法典》第 28 卷第 2201 節）

53. 就申訴的第 53 段作出答辯，圓谷透過引用在本文中納入其對申訴第 1 段至第 52 段中所載指稱的回應，猶如在本文中完整載述。

54. 就申訴的第 54 段作出答辯，圓谷承認其與原告人之間對涉及超級英雄超人之作品的所有權存在實際爭議，並否認其中所載餘下指稱的真實性。

55. 就申訴的第 55 段作出答辯，圓谷承認其中所載指稱的真實性。

56. 就申訴的第 56 段作出答辯，圓谷否認其中所載指稱的真實性，並明確否認原告人有權享有任何濟助。

**請求濟助**

作為對原告人濟助請求的回應，圓谷否認原告人有權享有任何濟助，無論是否在申訴中或以其他方式請求。

**積極抗辯書**

圓谷指稱並主張以下積極抗辯書進一步回應原告人的申訴，而不是同意或接受其對任何這些問題全部或部分承擔舉證責任或說服責任。圓谷保留再主張積極或其他抗辯的權利，其依據的法律理論可能或將透過澄清申訴、透過揭露、透過變更或澄清準據法或透過對原告人在本訴訟中的態度作進一步法律分析而顯露。

**第一份積極抗辯書**

原告人的申訴未能陳述可據以批准濟助的申索。

**第二份積極抗辯書**

原告人對所主張的部分或全部版權或指稱的其他事項不享有有效、可強制執行或受保護的權利或利益。

**第三份積極抗辯書**

由於事實表明原告人的申索基於欺詐性文件及/或以欺詐手段獲取的文件，原告人的全部或部分申索不得受理。

**第四份積極抗辯書**

由於原告人行為不檢，原告人的全部或部分申索不得受理。

**第五份積極抗辯書**

由於原告人的申訴中主張的內容及其他事項由圓谷獨立創作在先，原告人的全部或部分申索不得受理。

**第六份積極抗辯書**

由於原告人不具有起訴資格，原告人的全部或部分申索不得受理。

**第七份積極抗辯書**

根據關於時效的適用法規及懈怠原則，原告人的全部或部分申索不得受理。

**第八份積極抗辯書**

根據棄權、不容反悔、默許及放棄原則，原告人的全部或部分申索不得受理。

**第九份積極抗辯書**

《版權法》預先制止原告人的全部或部分州法律申索。

**第十份積極抗辯書**

根據既判力及附帶不容反悔原則，原告人的全部或部分申索不得受理。

**第十一份積極抗辯書**

由於原告人據以主張權利並尋求濟助的合約已終止及/或根據日本法律在其他方面無效，原告人的申索不得受理。

昆毅

昆毅

第十二份積極抗辯書

原告人未能減輕其損害（如有）。

第十三份積極抗辯書

原告人的損害（如有）並非由圓谷造成且在其他方面不可歸責於圓谷的作為或不作為。

第十四份積極抗辯書

由於原告人未能向美國版權局申請註冊部分或全部指稱侵權作品的版權，原告人的全部或部分申索不得受理。

第十五份積極抗辯書

由於不具有屬事管轄權，原告人的全部或部分申索（包括但不限於原告人基於在美國境外發生之指稱域外行為的申索）不得受理。

第十六份積極抗辯書

由於不合法原則及事實表明原告人的訴訟違反適用法律，原告人的全部或部分申索不得受理。

第十七份積極抗辯書

由於言論自由受《美國憲法第一修正案》保護，原告人的全部或部分申索不得受理。

第十八份積極抗辯書

由於圓谷一直秉誠行事且原告人未能申辯表示有權享有懲罰性及/或增強型損害賠償裁決的事實，原告人關於懲罰性及/或增強型損害賠償的全部及部分請求不得受理。

## 反申索書

對於其反申索，反申索人圓谷製作株式會社（「圓谷」）針對被反申索人 U M Corporation（「UM」）；Ultraman USA, Inc.（「Ultraman USA」）；Sompote Saeng duenchai（「Sompote」）；Golden Media Group, Inc.（「Golden Media Group」）；TIG A Entertainment Company, Ltd.（「TIGA」）；及 DOES 1-10（統稱「被反申索人」）申訴及指稱如下：

## 訴訟性質

1. 在本訴訟中，由於被反申索人非法展示、再現及分銷圓谷極富創意的版權作品，圓谷已成為遭受侵權的一方，因此圓谷有權享有濟助。

2. 圓谷從 1966 年開始基於超級英雄人物超人創作了多部電影及其他署名原創作品（包括下文第 28 段所界定之「超人系列叢書」中的作品），關於這點沒有爭議。超人系列叢書中的作品都很有創意且在美國受版權保護，關於這點沒有爭議。超人系列叢書中的作品及其中描繪的人物數十年來一直深受世界各地的粉絲喜愛，關於這點沒有爭議。

3. 但是，即使考慮到所有這些不爭的事實，被反申索人 UM 已來到此法院申請司法印戳批准被反申索人在美國涉及超人系列叢書的多重版權侵權行為，申索聲稱建於 1976 年的文件（其中一份*已被*國外至少一個國家的法院*裁定*為偽造）以某種方式令被反申索人有權作為「特許持有人」在欺詐性的「業權鏈」中非法展示、公開上演、特許、創作衍生作品並以其他方式在美國利用超人系列叢書，並進一步要求圓谷在美國避免利用*自己的*知識產權。

4. 被反申索人精心設計的幌子儘管如此，被反申索人無權展示、上演、特許或以其他方式利用超人系列叢書。超人系列叢書包括構成圓谷受版權保護的知識產權的署名原創作品。而由於圓谷未曾授權被反申索人利用其版權材料，被反申索人在美國經營業務持續侵犯版權。因此，圓谷提出這些反申索以制止被反申索人的持續侵權行為及獲得宣佈其為超人系列叢書中所有版權之合法所有人的判決。

**當事人**

5. 圓谷是根據日本法律組建的法團，主要營業地點位於日本東京，從事電影及相關娛樂產品製作與分銷業務及服務。

6. 圓谷得悉、相信並隨即指稱，被反申索人 UM 是根據日本法律組建的法團，主要營業地點位於日本東京。

7. 圓谷得悉、相信並隨即指稱，被反申索人 Ultraman USA 是根據加州法律組建的法團，主要營業地點位於加州羅蘭崗。

8. 圓谷得悉、相信並隨即指稱，被反申索人 Sompote 目前或一直與被反申索人 UM 及 Ultraman USA 有關連，且是泰國的居民及公民。

9. 圓谷得悉、相信並隨即指稱，被反申索人 TIGA 是根據香港法律組建的法團，主要營業地點位於香港。

10. 圓谷得悉、相信並隨即指稱，被反申索人 Golden Media Group 是根據加州法律組建的法團，主要營業地點位於加州紐荷爾。

11. 圓谷不知道被反申索人的真實姓名及身份，因此在本文中以虛構的姓名 DOES 1-10（含）命名。圓谷將尋求此法院批准修改其反申索書以在確定時指稱其真實姓名及身份。圓谷得悉、相信並隨即指稱，每個虛構命名的 DOE 被反申索人在一定程度上對在本文中指稱的不法行為承擔責任。圓谷進一步得悉、相信並隨即指稱，每個 DOE 被反申索人曾作為 UM、Ultraman USA、Sompote 及/或 TIGA 及/或 Golden Media Group（他們在所有相關時間互為代理人）的代理人或代表應請求或代其一致行動及參與。因此，在本文中所指的每項控罪及指稱亦茲為對虛構命名之 DOE 被反申索人的指稱。

12. 圓谷進一步得悉、相信並邇即指稱，在進行本文中指稱的行為時，每個被反申索人曾作為每個其他被反申索人的代理人或代表應請求、一致或代其一致行動及參與。因此，在本文中作出的每項指稱亦針對每一個被反申索人作出。

## 司法管轄權及審判地

13. 圓谷的反申索依據《版權法》、《美國法典》第 17 卷第 106 節及第 501 節提出。此外，根據《美國法典》第 28 卷第 1331 節及第 1338 節第 (a) 條，此法院對圓谷的反申索享有聯邦屬事管轄權。

14. 由於盡其所悉及所信，被反申索人 Ultraman USA 及 Golden Media Group 在此區註冊成立、主要營業地點在此區及/或在其他方面為此區的公民或居民，此法院可對他們行使屬人管轄權。由於 UM

已在此法院起訴圓谷並因而服從此法院的屬人管轄權，此法院可對被反申索人 UM 行使屬人管轄權。由於盡其所悉及所信，被反申索人 Sompote 及 TIGA 已在洛杉磯傳播及發行電影，目標針對在此區的客戶，並已接觸在此區的企業，侵犯圓谷的知識產權權利，且實際盡其所知，在此區這種行為已經或實質上可能對圓谷造成傷害，此法院可對他們行使屬人管轄權。

15. 由於被反申索人可能出現在此區、服從此區的屬人管轄權，且致使圓谷提出反申索的大部分活動或不作為曾發生在此區，根據《美國法典》第 28 卷第 1391 節第 (b)(2) 條及第 1400 節第 (a) 條，審判地位於此區。

昆毅

**事實性指稱**

**圓谷及超人系列叢書**

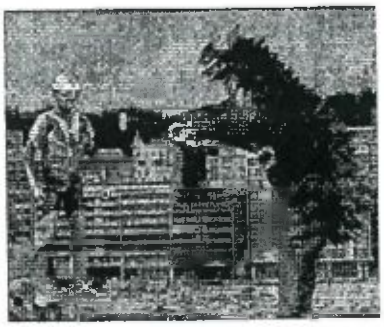
16. 圓谷由日本著名電影製片人（及《哥斯拉》共同創作人）Eiji Tsuburaya 於 1963 年創立，是日本備受矚目的娛樂公司，在全球範圍內從事電影及電視節目的策劃、製作、分銷、銷售及特許業務以及電影及電視製作的技術服務，與本訴訟有關。

17. 從 1964 年開始，圓谷創作並製作了《地球保衛戰》，這部 28 集特攝（基於特殊效果）科幻電視劇由 Eiji Tsuburaya 監製，由持續調查超自然現象（如巨型怪獸、外星人、幽靈等相關災難）的人物擔綱。這部電視劇當時很成功，並從 1966 年 1 月 2 日至 7 月 3 日在東京廣播系統首播。

18. 《地球保衛戰》蓄客成功後，1966 年，圓谷創作及發行了《超人》，這部 39 集電視劇接棒電視劇《地球保衛戰》從 1966 年 7 月 17 日至 1967 年 4 月 9 日在東京廣播系統播出。

19. 《超人》成為日本及海外非常成功之流行文化現象的起源，是首部納入頗受歡迎之超級英雄人物「超人」的系列片。

20. 在《超人》系列片中（如下文所述其後續系列片中），「超人」被描繪為系外行星「超人」英雄隊中紅色加銀色裝扮的成員，黃色眼睛炯炯有神，體型巨大，英勇保衛行星地球免受一切存在的威脅因素（從巨型怪物到邪惡外星人）禍害。《超人》系列片的某集中有一個圖像顯示超人（左）抵禦巨型怪物（右），如下圖所示：



21. 《超人》取得成功後，圓谷創作及製作了《超人七號》，這部 49 集版的《超人》特許經營片於 1967 年 10 月 1 日至 1968 年 9 月 8 日期間在日本電視台播出。

22. 在《超人七號》中，圓谷的「超人七號」——圓谷之「超人」的一個版本——亦被描繪成保衛地球免受外星人威脅之紅色加銀色裝扮的超級英雄。《超人七號》系列片中「超人七號」的一個圖像如下圖所示：

23. 繼《地球保衛戰》、《超人》及《超人七號》之後，仍有更多圓谷超人力作上市。1971 年，圓谷創作及製作了《超人歷險記》，這部 51 集超人系列片從 1971 年至 1972 年在東京廣播系統播出，繼圓谷的「超人」及「超人七號」監督及經常協助圓谷之「新超人」或「超人阿鄉」的英勇努力，亦描繪了大致相似的紅色加銀色套裝形象，體型巨大，在行星地球上抵禦怪物及外星人入侵。「超人阿鄉」的一個圖像如下圖所示。

24. 圓谷的超人系列片中下一章是《超人 Ace》，這部 52 集版的超人系列片從 1972 年 4 月 7 日至 1973 年 3 月 30 日在東京廣播系統播出。在《超人 Ace》中，圓谷的「超人」、「超人七號」、「超人阿鄉」及「超人 Ace」保衛地球免受試圖透過實驗及超級武器征服地球的外星人主腦 Yapool 入侵。圓谷之「超人 Ace」的一個圖像如下圖所示：

25. 1973 年，圓谷創作、製作並發行了《超人太郎》，這是超人系列片的下一部片，從 1973 年 4 月 6 日至 1974 年 4 月 5 日在東京廣播系統播出 53 集。在《超人太郎》中，「超人太郎」加入了圓谷的「超人」、「超人七號」、「超人阿鄉」及「超人 Ace」，打敗威脅行星地球的敵人，包括怪物及外星人。「超人太郎」為超人系列片帶來了一系列經改進的武器。圓谷之超人太郎的一個圖像如下圖所示：

26. 1973 年，圓谷創作及製作了《詹伯A》系列片，這是另一部 50 集特攝電視劇，從 1973 年 1 月 17 日至 12 月 29 日在株式會社每日放送播出，為其超人錦上添花並以此慶祝其十週年紀念日。《詹伯A》接棒巨型半機械人「詹伯A」的努力，保衛地球免受外星人威脅。「詹伯A」的一個圖像如下圖所示。

27. 《地球保衛戰》、《超人》、《超人七號》、《超人歷險記》、《超人 Ace》、《超人太郎》及《詹伯A》，以及其中描繪的大無畏人物（包括「超人」、「超人七號」、「新超人/超人阿鄉」、「超人 Ace」、「超人太郎」及「詹伯A」，在日本及海外（包括美國）一直廣受歡迎。

28. 圓谷的獨創超人作品及人物一直並繼續激發圓谷創作在日本、美國及其他地方仍極受歡迎的新一代衍生超人作品。上述作品包括電視節目、電影、動畫節目、兒童節目、電視特別節目、書籍乃至視頻遊戲。圓谷已基於超人人物及故事創作專門針對美國或其他外國觀眾的作品，如電影「超人歷險記」及電視劇「超人G飛越未來」。圓谷創作的所有超人作品及人物在本文中統稱為「超人系列叢書」。

29. 超人系列叢書包括圓谷創作及擁有的署名原創作品。在本訴訟中提出反申索前，圓谷已經在美國版權局獲得版權登記及/或向該局申請註冊超人系列叢書中包含的很多作品的版權，包括《超人歷險記》（註冊號為PA 351-884）、《超人G飛越未來》（註冊號為 PA 571-679、PA 571-680、PA 571-684、PA 571-685、PA 571-716、PA 571-717、PA 571-718、PA 571-719、PA 571-720、PA 571-721、PA 571-722、PA 571-723 及 PA 571-724），以及

電視劇《地球保衛戰》、《超人》、《超人七號》、《超人歷險記》、《超人 Ace》、《超人太郎》及《詹伯A》所有劇集（其註冊申請書已於 2015 年 9 月 9 日及 10 日提交美國版權局，目前仍待定）。

被反申索人侵犯超人作品的版權

30. 1973 年前後，圓谷及 Chaiyo Productions（下稱「Chaiyo」，圓谷得悉、相信並隨即指稱，這是一直受被反申索人 Sompote 控制的一間泰國實體）共同創作及發行了《巨人對詹伯A》，這部特攝科幻片描繪了圓谷的「詹伯A」與泰國的巨型石像聯手對付圓谷之「詹伯A」的敵人。

31. 1974 年前後，圓谷及 Chaiyo 共同創作及發行了《猴王大戰七超人》，這部特攝科幻片描繪了圓谷的「超人」、「超人七號」、「超人阿鄉」、「超人 Ace」及「超人太郎」與泰國神奇小子「Hanuman」聯手對抗（並最終戰勝）威脅地球存在的邪惡怪物。

32. 最終顯而易見，看到圓谷的超人系列叢書取得成功，被反申索人 Sompote 就不會滿足於圓谷授權其參與共同製作《巨人對詹伯A》及《猴王大戰七超人》。圓谷得悉、相信並隨即指稱，Sompote 及/或那些與其有關連者偽造了一份聲稱建於 1976 年前後的文件（下稱「1976 年文件」），其中聲稱作為除日本之外所有區域的獨家特許持有人，Sompote 獲授超人系列叢書中所含某些作品的某些版權及/或商標權。

33. Sompote 及其附屬實體使用欺詐性的 1976 年文件為非法牟取暴利及大規模侵犯超人系列叢書版權的全球活動辯解，已

嘗試但未能使用 1976 年文件令圓谷在其他國家/地區對超人系列叢書版權的申索無效。例如，2008 年，泰國最高法院完全駁回 Sompote 基於 1976 年文件的申索，拒絕承認 1976 年文件並駁回 Sompote 及其附屬實體基於該文件的侵權申索。

34. 圓谷得悉、相信並隨即指稱，Sompote 由於在泰國訴訟中使用 1976 年文件而在泰國被控且隨後被判犯偽證罪。圓谷得悉、相信並隨即指稱，2014 年 6 月前後 Sompote 由於在泰國訴訟中使用 1976 年文件而在一審中被判犯偽證罪，被判處兩年監禁並被處以罰款 14,000 泰銖，之後，泰國法院下令出示 1976 年文件的原件。

35. 圓谷得悉、相信並隨即指稱，儘管經歷了這些挫折，儘管輸了在外國審判地的申索，Sompote 目前仍開始在美國毫無根據地企圖從圓谷的創意中牟利並使圓谷的版權失效。具體而言，Tsburuaya 得悉、相信並隨即指稱，Sompote 及/或其共同被反申索人已繼續使用 1976 年文件建立一個精心設計的欺詐性「業權鏈」，暗指在美國大量侵犯版權的行為。

36. 圓谷得悉、相信並隨即指稱，Sompote 首先透過一名人士 Perasit Saengduenchai 將其在 1976 年文件中聲稱的利益轉讓予被反申索人 UM，即 Sompote 的附屬公司，這間公司使用這些權利在美國、中國、香港、台灣及馬來西亞非法授予超人系列叢書的聲稱特許權，並在所有這些國家及地區基於超人系列叢書開發衍生人物。

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37. 圓谷得悉、相信並隨即指稱，被反申索人 UM 欺詐性地向美國版權局申請註冊超人系列叢書中的四部作品。

38. 圓谷得悉、相信並隨即指稱，被反申索人 Sompote 及/或 UM 正在基於超人系列叢書創作電影，用於在中國、亞洲國家（日本除外）及美國分銷。

39. 圓谷得悉、相信並隨即指稱，被反申索人 UM 已聲稱透過被反申索人 TIGA 在美國進一步將圓谷的超人系列叢書非法特許予其他公司，包括被反申索人 Golden Media Group 及 DOES 1 -10，且 UM、TIGA、Golden Media Group 及 DOES 1-10 正在同謀在美國及此區非法公開展示、公開上演、特許及以其他方式利用超人系列叢書，包括透過 YouTube、電影、特許協議及其他侵犯圓谷知識產權權利的行為。

40. 圓谷得悉、相信並隨即指稱，2014 年 10 月或之前，被反申索人 UM 及/或 Golden Media Group 非法將圓谷的超人系列叢書各集特許予一個或多個第三方，以便將這些劇集上載至 YouTube。大約在同一時間，圓谷如實告知第三方，圓谷是超人系列叢書的唯一版權擁有人，被反申索人基於 1976 年文件發生爭議且仍在爭議中。

41. 圓谷得悉、相信並隨即指稱，2013 年 11 月前後，被反申索人 Sompote 在美國發行了一本書，其中含有題為「永遠的超人」的圖像及文字，包括直接從超人系列叢書剽竊的多個圖像及人物，與此同時，還前往洛杉磯非法聲稱超人系列叢書

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的所有權並以其他方式非法公開展示、公開上演、特許及利用超人系列叢書。圓谷得悉、相信並隨即指稱，大約在這個時候，Sompote 依據 1976 年文件在洛杉磯公佈其在日本以外地區獲得超人系列叢書的特許權。

42. 圓谷得悉、相信並隨即指稱，2015 年 5 月 10 日前後，也是被反申索人 UM 提起本訴訟的大約時間，Sompote 在洛杉磯舉行了一項活動，並在活動中公佈成立被反申索人 Ultraman USA，以在美國利用超人系列叢書。在活動中，被反申索人 Sompote 公佈其將透過被反申索人 Ultraman USA （據推測還有其他被反申索人）在美國藍光唱片發行《地球保衛戰》、《超人》、《超人七號》、《超人歷險記》、《超人 Ace》、《超人太郎》及《詹伯A》——簡言之，大部分超人系列叢書。活動中有對超人系列叢書的許多描寫，顯然侵犯了圓谷的再現、公開展示、公開上演及衍生作品權利。

43. 圓谷進一步得悉、相信並隨即指稱，被反申索人 UM、Sompote、Ultraman USA 及 Golden Media Group 目前在美國另行或進一步侵犯圓谷於超人系列叢書的再現、公開展示、公開上演及衍生作品權利，包括透過將超人系列叢書的圖像或視頻上載至 Internet 及 YouTube，協商在美國製作及拍攝電影，基於超人系列叢書在美國創作衍生作品（包括玩具及其他商品）並從所有上述活動中牟利。

44. 與被反申索人的指稱相反，圓谷未曾向被反申索人轉讓或授予超人系列叢書的所有權或特許權。因此，被反申索人已未

經授權而分銷、再現、公開展示及公開上演超人系列叢書，並繼續這麼做。這種持續性活動明顯構成對版權的侵犯。

45. 圓谷提出其反申索以制止被反申索人持續侵犯超人系列叢書版權的侵權行為。

針對濟助的第一份反申索書

（所有被反申索人侵犯版權）

（《美國法典》第 17 卷第 106 節及以下各節及第 501 節）

46. 圓谷重複並再指稱上述每項指稱，猶如在本文中完整載述。

47. 超人系列叢書包括的原創作品構成《版權法》、《美國法典》第 17 卷第 101 節及以下各節中規定的受版權保護的標的，圓谷已在所有相關時間擁有這些作品的所有適用權利、所有權及利益，且圓谷已向美國版權局申請及/或獲准註冊其中一些作品（統稱「版權作品」），其註冊構成圓谷版權合法性及證書中所述事實的表面證據。

48. 被反申索人已侵犯並繼續侵犯版權作品，包括未經圓谷授權而複製、分銷、公開展示及公開上演超人系列叢書。因此，根據《美國法典》第 17 卷第 106 節，被反申索人已侵犯並正在侵犯圓谷的專有權利。盡其所悉及所信，被反申索人亦共同及間接侵犯圓谷之版權作品的版權。圓谷得悉、相信並隨即指稱，被反申索人的侵權行為一直是刻意及故意為之。

49. 由於被反申索人的侵權行為，圓谷已經且將繼續直接及間接遭受實際損害。圓谷得悉、相信並隨即指稱，被反申索人亦已意識到

其侵權行為間接產生的不公平利潤、收益及利益。圓谷有權享有其實際損害賠償及被反申索人因其侵權訴訟而獲得的任何收益、利潤及利益。另外，圓谷可依願有權享有《版權法》、《美國法典》第 17 卷第 504 節第 (c) 條所允許的最高法定損害賠償裁決。

50. 對於因被反申索人的侵權行為而當前遭受的傷害及可能遭受的其他傷害，圓谷在法律上沒有得到足夠的補償。除非禁止被告人進一步提起任何此類侵權訴訟，否則被反申索人將繼續從事其不法行為，而圓谷將繼續遭受無法彌補的傷害卻無法在法律上得到充分的濟助。因此，圓谷有權享有限制被反申索人違反美國《版權法》、《美國法典》第 17 卷第 502 節進一步從事任何此類行動的禁令。

<u>針對濟助的第二份反申索書</u>

（針對所有被反申索人的宣告式濟助）

51. 圓谷重複並再指稱上述每項指稱，猶如在本文中完整載述。

52. 一方面，圓谷積極提出異議，另一方面，被反申索人亦積極提出異議，且至於當事人對圓谷創作之版權作品（包括超人系列叢書）的權利及義務，存在實際爭議。

53. 圓谷認為其一直是版權作品中任何及所有權利的唯一所有人，且被反申索人無權分銷、再現、展示這些作品或據此創作衍生作品。

圓谷得悉、相信並隨即指稱，被反申索人對這一切存在異議，且系依據 1976 年文件提出異議。

54. 因此，圓谷尋求宣告式判決表示：(1) 圓谷是版權作品中任

何及所有權利的唯一所有人，且被反申索人無權分銷、再現、展示這些作品或據此創作衍生作品；(2) 1976 年文件沒有任何效力；及 (3) 圓谷不對被反申索人承擔任何義務。

請求濟助

因此，圓谷請求此法院以如下方式為圓谷作出判決：

1. 裁決圓谷因被反申索人的行為而已經或將會承受的所有損害賠償及被反申索人從上述行為中獲得的利潤，或者（替代前述內容）法律規定的法定損害賠償；

2. 授予禁令濟助，限制被反申索人直接或間接侵犯圓谷根據《版權法》享有的權利，包括進一步分銷或意圖特許超人系列叢書中的任何作品或以其他方式侵犯圓谷於版權作品中享有的專有權利；

3. 宣佈：(1) 圓谷是版權作品中任何及所有權利的唯一所有人，且被反申索人無權分銷、再現、展示這些作品或據此創作衍生作品；(2) 1976 年文件沒有任何效力；及 (3) 圓谷不對被反申索人承擔任何義務。

4. 裁決圓谷其訴訟費及合理律師費，以及判決前後的利息；並

5. 在法律上或在衡平法上進一步及額外授予圓谷可能有權享有或此法院認為公正且適當的所有此類濟助。

日期：2015 年 9 月 11 日

昆毅律師事務所

昆毅

由 Daniel C. Posner 送達

Daniel C. Posner

圓谷製作株式會社的律師

**要求陪審團審訊**

圓谷茲要求陪審團審訊原告人的申索及圓谷的反申索中可由陪審團審訊的所有問題。

日期：2015 年 9 月 11 日　　昆毅律師事務所

昆毅

由 Daniel C. Posner 送達
Daniel C. Posner
圓谷製作株式會社的律師